

MERCHANT AGREEMENT GENERAL TERMS & CONDITIONS

This General Terms and Conditions shall form an integral part of the Merchant Agreement (“Agreement”) entered into between the Merchant whose particulars are set out in the Registration Form and Fave Asia Technologies Sdn Bhd (Fave)..

1. ABOUT FAVE

- 1.1. Fave is the owner and operator of an online marketplace Platform branded “**Fave**” that, among others:
- (a) connects and facilitates the sale and purchase of instant discount coupons and vouchers between merchants and consumers;
 - (b) offers a marketing mechanism named “**Fave Deals**” that assists the Merchant to design and feature deals on the Platform;
 - (c) offers a cashless mobile payment mechanism named “**FavePay**” where consumers can earn cashback by using the same to pay for their transactions at the participating merchant’s outlet(s); and
 - (d) offers a business management tool named “**FaveBiz**” with its main function to ease the business operation and monitoring on part of the merchants.

2. DEFINITIONS AND INTERPRETATIONS

- 2.1. In this Agreement, unless the subject or context otherwise requires the following words and expressions shall have the following meanings:

“**Agreement**” or “**Merchant Agreement**” means all the terms and conditions applicable to the Merchant, including the **Registration Form**, this **General Terms & Conditions**, the **FaveBiz Terms & Conditions**, the **Products Terms & Conditions** (as Fave may introduce and the Merchant may accept from time to time, whether physically or through online) and any appendices and annexures and/or other additional documents referred to in this General Terms & Conditions and the respective Products Terms & Conditions, including but not limited to any future amendment or addendum made by Fave, as the case may be.

“**Appointed Service Provider**” has the meaning ascribed to it in Clause 3.1(c).

“**Applicable Tax**” means the sales and services tax (SST), goods and services tax (GST), value-added tax (VAT) and/or such other consumption tax or tax of similar nature (by whatever name called) imposed by the relevant authorities from time to time, whichever is applicable.

“**Customer**” means, individually and collectively, users who registered with Fave at the Platform for utilisation of Fave Deals and/or FavePay.

“**DuitNow QR**” means Malaysia’s National QR Standard where any compliant QR Code may receive payments from any participating Banks and e-Wallets mobile apps.

“**Effective Date**” means the signing date of Fave of this Merchant Agreement as set out in the **Registration Form**.

“**Fave**” means **Fave Asia Technologies Sdn. Bhd. (formerly known as Groupon Sdn Bhd) (Company No. 928899-V)**, a company incorporated in Malaysia and having its principal place of business at E-16-D1, Block, E, Plaza, Mont Kiara, 50480 Kuala Lumpur, Malaysia.

“**FaveBiz**” means an online tool developed by Fave for the use by the Merchant, which includes favebiz.com, new.favebiz.com, staff.favebiz.com and their respective mobile applications and/or mobile web equivalents, whereby the Merchant may access, submit, monitor, review and verify all business information and transaction data of all payments transacted through Fave’s Product(s).

“**FaveBiz Terms & Conditions**” means the terms and conditions and/or terms of use of FaveBiz published and updated by Fave from time to time.

“**Fave Deals**” means a marketing mechanism developed and owned by Fave that assists the Merchant to design and feature its Merchant Offerings for purchase by the Customer on the Platform.

“**FavePay**” means a cashless payment mechanism developed and owned by Fave that allows Customer to make cashless payments to the Merchant at the Merchant’s participating outlet(s) via the App.

"Fave Policies" means any and all standard operating procedures, policies, guidelines and/or code of practices implemented by Fave from time to time.

"Fave Service Charges" means the fees chargeable by Fave to the Merchant in respect of the services and/or Products provided by Fave, which may include (but not limited to) any commission, service fee, cashback or such other fees imposed by Fave for the Product(s) from time to time, as set out in the respective Products Terms & Conditions.

"Merchant" means the merchant whose particulars are stipulated in the **Registration Form**.

"Merchant Offering" means offering(s) made available by the Merchant to Customer via the Platform, which may include sale of goods or provision of services, as more particularly described in the relevant **Product Terms & Conditions** respectively.

"Parties" means collectively, the Merchant and Fave

"Paynet" means the national payment network owned by Payments Network Malaysia Sdn Bhd that includes the DuitNow QR service.

"Platform" means, collectively, myfave.com website ("**Site**") and the Fave's mobile application ("**App**").

"Privacy Policy" means the privacy policy applicable to all users of the Platform and/or Products, which shall include but not limited to the Customer and the Merchant, published (and updated from time to time) by Fave on the Platform at myfave.com/privacy.

"Products" means services offered by Fave, including but not limited to Fave Deals, FavePay and such other services introduced and offered by Fave from time to time; **"Product"** means any of the services.

"Product Terms & Conditions" means the terms and conditions applicable to a specific Product, of which the Merchant is required to execute, whether physically or through online, upon its subscription of such Product with Fave; **"Products Terms & Conditions"** means, collectively, all the terms and conditions applicable to all the Products.

"Promotional Materials" has the meaning ascribed to it in Clause 7.6.

"RegistrationForm" means the binding registration form filled up, submitted and executed by the Merchant, whether physically or through online, including the Merchant Application Form-Value Added Service (VAS) for purposes of its registration as a participating merchant with Fave and such Registration Form shall form part of the Merchant Agreement.

"Remittance Amount" has the meaning ascribed to it in Clause 5.1(d).

2.2. Unless the context otherwise requires:

- (a) The headings of this Agreement are for convenience only and do not affect the interpretation of this Agreement;
- (b) where any word or expression is defined in this Agreement, the definition shall extend to all grammatical variations and cognate expressions of the word or expression so defined;
- (c) any part of speech or grammatical form of a word or phrase defined in this Agreement has a corresponding meaning;
- (d) unless the context otherwise requires or permits, references to the singular number include references to the plural number and vice versa;
- (e) words applicable to natural persons include any body of persons, corporation, firm or partnership, whether incorporated or unincorporated, and vice versa;
- (f) words importing the masculine gender shall include the feminine and neuter genders and vice versa;
- (g) any technical term not specifically defined in this Agreement shall be construed in accordance with the general practice of such relevant profession in Malaysia;
- (h) wherever there shall appear any reference to a time within which an act should be done or agreement reached or consent given, such reference shall be deemed to be read as including the expression "or any other period agreed in writing between the Parties from time to time";
- (i) any reference to an "agreement", "approval", "consent" or "request" shall mean agreement, approval, consent or request in writing;
- (j) "writing" includes electronic mail, facsimile transmission, and any comparable means of communication made available in FaveBiz;
- (k) any reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted and shall include all subordinate

- legislations, by-laws, instruments, orders rules and regulation made thereunder;
- (l) for the purpose of calculating any period of time stipulated herein or when an act is required to be done within a specified period after or from a specified date, the period is inclusive of and time begins to run from the date specified;
- (m) any reference to a “day”, “week”, “month” or “year” is reference to that day, week, month or year in accordance to the Gregorian calendar; and
- (n) no rule of construction or interpretation shall apply to prejudice the interest of the Party preparing this Agreement.

3. PARTIES' OBLIGATIONS

3.1. Fave's Obligations

- (a) Please refer to the respective **Products Terms & Conditions** in relation to Fave's obligations for the relevant Product.
- (b) Fave endeavours to perform its obligations in the respective **Products Terms & Conditions** in compliance with the applicable laws, rules and regulations and guidelines from time to time in force by the relevant authorities.
- (c) Fave may at any time or from time to time sub-contract, assign and/or appoint any third party service provider (which may include its shareholders, subsidiaries, associates, affiliates, licencees and business partners) ("**Appointed Service Provider**") to perform its obligations and/or part thereof under this Agreement and/or for certain Product at its absolute discretion. Fave shall ensure that its Appointed Service Provider will perform the obligations in accordance with the terms and conditions contained in this Agreement and that Fave will be responsible for the acts of its Appointed Service Provider.

3.2. Merchant's Obligations

In relation to Merchant Offering

- (a) The Merchant irrevocably acknowledges that Fave's due performance of obligations is largely dependent on the information provided by the Merchant to Fave. The Merchant shall ensure and is obliged to procure that all information provided by the Merchant to Fave, including but not limited to the pricing of the Merchant Offering, is accurate and not misleading (i.e. free from any price inflation, hidden costs or undisclosed terms and conditions) and is in compliance with all applicable laws, rules and regulations, guidelines and Fave Policies which the Merchant shall observe whether as required by Fave or by the relevant authorities.
- (b) The Merchant – not Fave – is solely responsible for providing the Merchant Offering, including but not limited to, the supply or performance of the Merchant Offering, customer services, after-sales-services and return management.
- (c) Any issues or disputes arising out of or related to the supply or performance of the Merchant Offering by the Merchant to the Customer shall not affect Fave's right to retain all sums payable by the Merchant to Fave for the Product(s) the Merchant subscribed with Fave.

In relation to FaveBiz

- (d) For effective business management purposes, Fave will provide to the Merchant a merchant account on FaveBiz ("**FaveBiz Account**").
- (e) The Merchant shall:
 - (i) take all reasonable precautions and diligence to prevent any unauthorized use of FaveBiz;
 - (ii) keep the user identification and password of its FaveBiz Account confidential;
 - (iii) immediately notify Fave of any unauthorised use of the FaveBiz Account;
 - (iv) ensure that the FaveBiz Account is not shared with and used by any unauthorised person;
 - (v) ensure that all information provided in the FaveBiz Account is complete, accurate, up-to-date and not misleading;
 - (vi) use the FaveBiz Account only in accordance with FaveBiz Terms & Conditions published (and updated from time to time) by Fave through online; and
 - (vii) not use the FaveBiz Account in a manner which may jeopardise Fave's operation or reputation.
- (f) The Merchant is fully responsible for all activities that occur under its FaveBiz Account even if such activities or uses were not committed by the authorised personnel of the Merchant. Fave will not be

liable for any direct or indirect loss or damage arising from unauthorised use of the FaveBiz Account or the Merchant's failure to comply with this Clause 3.

- (g) For enhancement and security purposes, Fave may from time to time conduct software evaluation to assess the performance of FaveBiz. The Merchant irrevocably agrees to grant authorisation to Fave to assess and review its FaveBiz Account if so required by Fave due to the foregoing purposes.
- (h) Fave shall have the absolute right to suspend or close down the Merchant's FaveBiz Account in accordance with Clause 11 below without any liability to the Merchant.

4. FAVEBIZ

- 4.1. Subject to Clause 3.2(d) above, Fave shall grant a non-exclusive, non-transferable and revocable licence or right to the Merchant for the use of FaveBiz.
- 4.2. In consideration of Fave agreeing to grant to the Merchant the right set out in Clause 4.1 above, the Merchant shall pay to Fave a licence fee as set out in **Section D of the Registration Form ("Licence Fee")**.
- 4.3. The Licence Fee shall be automatically deducted by Fave from the payment to be made by Fave to the Merchant.

5. PAYMENT

5.1. General Process of Payment

All successful payments made by the Customer to the Merchant in respect of the Merchant Offerings purchased ("**Successful Transaction**") will first be collected and held by Fave. For such purposes, the Merchant shall hereby authorise Fave to act as its payment facilitator to:

- (a) process and receive all payments made by the Customer for the purchase of Merchant Offering;
- (b) collect and hold on behalf of the Merchant all sales revenues generated from the Successful Transactions;
- (c) process payment for refund and/or adjustment to the Customer on the Merchant's behalf; and
- (d) remit to the Merchant the balance of the sales revenues after deducting all sums payable by the Merchant to Fave, or deductible by Fave, pursuant to the Product(s) ("**Remittance Amount**"), which may include (but not limited to) the followings:
 - (i) Licence Fee payable under FaveBiz;
 - (ii) Fave Service Charges;
 - (iii) refund as stipulated in Clause 5.4;
 - (iv) charge back in the event of any disputed transaction (if applicable);
 - (v) bank charges (if any);
 - (vi) administrative or supporting fees chargeable by Fave, whether to the Merchant or to the Customer, pursuant to a transaction via Fave (if any);
 - (vii) the Applicable Tax; and
 - (viii) any other sums due to Fave under this Agreement or otherwise.

For the avoidance of doubt, if and when conversion of monies for purposes of Clause 5.1 above is required, such conversion shall be in accordance to the then prevailing exchange rates as agreed between Fave and the Merchant.

5.2. Invoicing and Remittance

- (a) The invoicing and remittance of the Remittance Amount by Fave to the Merchant's designated bank account shall be subjected to the relevant payment terms and conditions set out in the respective **Products Terms & Conditions**.
- (b) For the avoidance of doubt, Fave shall have the absolute right to withhold any and all Remittance Amount or any other sum due to the Merchant pursuant to Clause 11 if any of the events set out in Clause 11.1 below shall arise.

5.3. Applicable Tax

Fave and the Merchant shall respectively account for the amount of Applicable Tax for which each of them is liable pursuant to any applicable laws and regulations. If any law governing the Applicable Tax changes

such that Fave becomes liable to account for the Applicable Tax which was previously liable to be accounted for (or was scheduled to be so liable to be accounted for by) to the Merchant, subject always to compliance with the applicable laws, the Merchant agrees that Fave shall be entitled to vary the payment terms or financial provisions of this Agreement in order to reduce its tax implications, provided always that a prior written notice shall first be given to the Merchant.

5.4. Refund

Fave shall have the right to refund any Customer who purchases a Merchant Offering and who, in Fave's reasonable opinion, has a valid complaint about the Merchant Offering, including, but not limited to, its supply or performance by the Merchant. If Fave has already paid the Merchant in respect of such refunded Merchant Offering, Fave shall be entitled to recover the refunded amount from the Merchant by deducting such amount from the subsequent Remittance Amount.

5.5. Set-Off

- (a) Fave shall have the right to set off against any amounts payable or owed by the Merchant to Fave (or to a third party who claims such amount from Fave, provided that all supporting documents for such claim must be provided to the Merchant for reference and/or verification) against the Remittance Amount.
- (b) The Merchant shall not have the right to set off any amounts owed by Fave to the Merchant.

6. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

6.1. Merchant's General Representations, Warranties and Undertakings

The Merchant represents, warrants and undertakes that:

- (a) it is duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation;
- (b) it has the power to enter into, exercise its rights and perform and comply with its obligations under this Agreement to which it is a party, as the case may be, and all third party approvals and consent necessary for its entry into this Agreement have been obtained and, to the best of its knowledge, have not been revoked or withdrawn;
- (c) its entry into, exercise of its rights under and/or performance of or compliance with its obligations under this Agreement to which it is a party, as the case may be, do not and will not violate, or exceed any power or restriction granted or imposed by, (i) any law, authorisation, directive or order (whether or not having the force of law) to which it is subject; (ii) its constitutive documents, where applicable; or (iii) any agreement or arrangement to which it is a party or which is binding on it or its assets;
- (d) all actions, conditions and things required to be taken, fulfilled and done including, without limitation the obtaining of any necessary approval, consents, licence and permits or the making of any filing or registration in order to enable it lawfully to enter into, exercise its rights under and perform and comply with its obligations under this Agreement to which it is a party, as the case may be, and to ensure that those obligations are legally binding and enforceable, have been taken, fulfilled and done;
- (e) there is no action, proceeding, claim or investigation pending against it before any court or administrative authority which if determined against it may reasonably be expected to have a material adverse effect on its ability to perform its obligations hereunder;
- (f) all data and information provided or to be provided by the Merchant to Fave, whether or not set out in this Agreement, is complete, accurate, not misleading, and up-to-date;
- (g) all actions taken or to be taken and all obligations performed or to be performed by the Merchant pursuant to this Agreement shall at all times be:
 - (i) in compliance with all applicable laws, rules and regulations, directives, government policies and industrial guidelines from time to time in force;
 - (ii) in conformity with Fave Policies; and
 - (iii) where applicable, in compliance with Paynet rules and regulations.
- (h) any person filling-in, signing or executing any document or agreement, utilising FaveBiz and/or Product(s), or handling the Merchant Offering, on behalf of the Merchant has full power and authority to do so on behalf of the Merchant;
- (i) it shall acknowledge and respond to such notifications and updates made by Fave via facsimile, electronic mail and/or the communication channel available in the FaveBiz confirming that the Merchant has received, read and fully understand the contents of such notification and updates, if so

- required by Fave in the said notification and updates; and
- (j) if applicable, it shall make itself available to, and to render full cooperation to Fave Paynet and/or the relevant authorities concerning any pending and future contentious matters or investigations (including investigations commenced pursuant to Clause 11 below) arising out of or in connection with this Agreement in order to ensure that such matters or investigations can be resolved efficiently and amicably.

6.2. Merchant's Warranties and Representations in relation to Merchant Offering

The Merchant further represents, warrants, undertakes and agrees that:

- (a) it has the full authority to supply, deliver and perform the Merchant Offering to the Customer;
- (b) it will supply, perform and fulfill the Merchant Offerings with due diligence, reasonable care and skills;
- (c) if the Merchant Offering is related to sale or supply of goods, such goods are procured or obtained legally by the Merchant free from any kinds of encumbrances and are authentic goods that are not counterfeited, fake or imitation and of merchantable quality;
- (d) all information pertaining to the Merchant Offering to be listed and featured on the Platform are provided by the Merchant and it shall be the sole responsibilities of the Merchant to ensure that all description, specification or any other information in relation to the Merchant Offering shall at all times be explicit, true, accurate and not misleading and that no hidden charges, price inflation and/or implied terms and conditions will be imposed by the Merchant on its Merchant Offering as per Fave's **Guidelines on Price Transparency**;
- (e) all information provided by the Merchant to Fave for the purpose of listing and featuring does not:
 - (i) involve false, inaccurate or misleading content;
 - (ii) infringe or misappropriate any person's copyright, patent, trademark, trade secret or other proprietary rights. The unauthorised use of any person's copyright, patent, trademark, trade secret or other proprietary rights, including the use of images and photos, is illegal and is strictly prohibited by Fave. It is the Merchant's sole responsibility to use its own product's images for purposes of featuring on the Platform, and if any third party's photos and images is to be used by the Merchant, the Merchant shall ensure that it has permission from the rightful owner and/or creator;
 - (iii) violate any laws, statute, ordinance, regulation, governmental guideline or policy in Malaysia and/or such other applicable jurisdictions;
 - (iv) display content that is indecent, obscene, false, menacing, or offensive in character with intent to annoy, abuse, threaten or harass any person or otherwise infringes the requirements of the Content Code published by the Malaysian Communications and Multimedia Commission. Without prejudice to the generality of the foregoing, it shall include content:
 - (aa) that is defamatory, trade libellous, unlawfully threatening or harassing, or advocating, promoting or providing assistance involving violence, significant risk of death or injury, or other unlawful activities;
 - (bb) displays material containing pornography of any kind or any that exploits children under age of eighteen (18) years; or
 - (cc) displays content advocating, promoting or otherwise encouraging violence against any governments, organisations, groups or individuals or cruelty towards animal or that provides instruction/information or assistance in carrying out the same.

6.3. Merchant's Negative Covenants

The Merchant further represents, warrants and undertakes that it will not, directly or indirectly:

- (a) access illegally or without authorisation any computers, servers, accounts or networks of Fave or its Appointed Service Providers, or attempts to hack into Fave's or its Appointed Service Provider's security systems, having Fave or its Appointed Service Providers to host or distribute any internet viruses or other harmful code, ping, flooding, mail bombing or denial-of-service attacks, or disrupting others from effectively using Fave's Platform and Products;
- (b) be involved in the transmission of unsolicited commercial or bulk email (spamming) whether from or to Fave's or its Appointed Service Provider's servers or the Customer;
- (c) participate in any activities relating to pyramid, Ponzi schemes, gambling, sweepstakes, raffles, lotteries and all other illegal activities;
- (d) harm Fave's or its Appointed Service Provider's servers (including but not limited to overloading Fave's or its Appointed Service Provider's service servers or other technical infrastructure);
- (e) create liability for Fave or its Appointed Service Providers or exposes them to undue risk or otherwise is harmful to the Fave's operations, reputation, or goodwill;

- (f) take any such action that is not appropriate in the reasonable opinion of Fave; and
- (g) take any action and permit any omission which could cause any of its respective representations, warranties and undertakings set out in this Agreement to become untrue and inaccurate; and
- (h) perform submission of any illegal, fraudulent and unauthorized transactions into the payment system.

6.4. Fave's Representations, Warranties and Undertakings

- (a) Fave warrants, represents and undertakes that:
 - (i) It is duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation;
 - (ii) it has the power to enter into, exercise its rights and perform and comply with its obligations under this Agreement to which it is a party, as the case may be, and all third party approvals and consent necessary for its entry into this Agreement have been obtained and, to the best of its knowledge, have not been revoked or withdrawn;
 - (iii) its entry into, exercise of its rights under and/or performance of or compliance with its obligations under this Agreement to which it is a party, as the case may be, do not and will not violate, or exceed any power or restriction granted or imposed by, (i) any law, authorisation, directive or order (whether or not having the force of law) to which it is subject; (ii) its constitutive documents, where applicable; or (iii) any agreement or arrangement to which it is a party or which is binding on it or its assets;
 - (iv) all actions, conditions and things required to be taken, fulfilled and done including, without limitation the obtaining of any necessary approval, consents, licence and permits or the making of any filing or registration in order to enable it lawfully to enter into, exercise its rights under and perform and comply with its obligations under this Agreement to which it is a party, as the case may be, and to ensure that those obligations are legally binding and enforceable, have been taken, fulfilled and done; and
 - (v) it will execute and carry out its obligations arising under or in connection with this Agreement and for the Product(s) with due diligence, reasonable care and skills.
- (b) Unless otherwise expressly provided herein, the Platform, FaveBiz and Product(s) are to be provided on an "as is" and "as available" basis without any warranty or condition, express, implied or statutory.
- (c) Fave does not warrant that:
 - (i) the utilisation of FaveBiz and Product(s) will always be uninterrupted or error-free;
 - (ii) the Customer is genuine or that all transactions with the Customer will always be successful as Fave has no obligation to screen or verify the authenticity of a transaction or the identity of Customer.

7. INTELLECTUAL PROPERTY

7.1. Subject to the performance of obligations by the respective Parties under this Agreement, the Intellectual Property of each Party shall at all times remain as the proprietary rights of each belonging Party and one Party shall not use the Intellectual Property of the other Party for such other purposes not contemplated in this Agreement without prior written consent from the other Party. Nothing contained in this Agreement shall in whatsoever manner be construed as to commission or transfer Intellectual Property rights.

7.2. For purposes of this Clause 7, "**Intellectual Property**" means any and all of the following:

- (a) the trademark for the artwork including without limitation, all pictorial, graphic, visual, audio, audio-visual, digital, literary, animated, sculptural or any type of creations and applications, whether finished or not;
- (b) copyright (including future copyright) and rights in the nature of or analogous to copyright;
- (c) all trade secrets, know-how, compositions of matter, formulae, improvements and ideas (including Confidential Information); and
- (d) patents and patents applications, whether or not now existing and whether or not registered or registrable.

7.3. Licensing of Intellectual Property by the Merchant

For the term of this Agreement, the Merchant agrees to grant to Fave a non-exclusive, worldwide, royalty free, irrevocable, transferable and sub-licensable right to use the Merchant's registered and unregistered Intellectual Property rights, and any third party's Intellectual Property rights supplied by the Merchant to Fave, including but not limited to any editorial text, photos and/or images.

7.4. Fave's Intellectual Property

- (a) The ownership of all Intellectual Property of Fave shall at all times remain the exclusive property of Fave and the Merchant shall not use any of Fave's Intellectual Property or prepare any derivative work based on the same without Fave's prior written approval.
- (b) All rights, interest and/or improvements in relation to any Intellectual Property developed by Fave in the course of its business and/or provision of services, and all rights and interest in any data (including Personal Data) collected, processed and/or generated by Fave shall belong solely to Fave.

7.5. Representations and Warranties

Each Party represents and warrants to the other Party that it owns all interests in and to its Intellectual Property, has the licence (including the right to sub-licensing) in the third party's Intellectual Property, and has the right to grant the licence for purposes contemplated in this Agreement.

7.6. Promotional Material

For the avoidance of doubt, all and any catalogues, advertisement and/or sales promotion materials ("**Promotional Materials**") produced or created by either Party pursuant or ancillary to the promotion, advertising and marketing of this Collaboration shall be the sole and exclusive property of that Party and the other Party shall not use any of the materials for any other purpose beyond this Agreement unless prior written consent is obtained.

8. DATA PROTECTION

- 8.1. In relation to Personal Data provided by either Party ("**disclosing Party**") to the other Party ("**receiving Party**") in connection with or for purposes of this Agreement, if any, the disclosing Party warrants and represents to the receiving Party that it has obtained or has procured sufficient informed consent from each relevant individual for the receiving Party to collect, use, handle, store, disclose, transfer (collectively known as "**Process**") the Personal Data in accordance with this Clause 8.
- 8.2. For purposes of this Clause 8, "**Personal Data**" shall have the meaning ascribed to it in section 4 of the Malaysian Personal Data Protection Act 2010.
- 8.3. The receiving Party shall ensure that it must:
 - (a) only Process the Personal Data to the extent necessary for the purpose of this Agreement and the fulfilment of its obligations under this Agreement or otherwise in order to comply with laws, and for no other purposes;
 - (b) comply with the Personal Data Protection Act 2010, other personal data protection laws and such other applicable laws in force from time to time, and not do any act or engage in any practice that would breach any provision of any applicable law, or do any act or engage in any practice which would cause the disclosing Party to breach any provision of any applicable law; and
 - (c) ensure that sufficient technical and organisational security measures and degree of care are adopted in relation to the Personal Data, including such measures to protect Personal Data from any loss, misuse, modification, unauthorised or accidental access or disclosure, alteration or destruction.

8.4. Transfer of Data

The Parties acknowledge that the receiving Party appoints or may appoint third party service providers (which may include its shareholders, subsidiaries, associates or affiliates) to Process data, including Personal Data, received from the disclosing Party. Each Party hereby grants its consent to the other Party for the transmission of its data to the appointed service providers provided always that such appointed service providers shall strictly comply with all the applicable laws in relation to data protection and shall be subjected to confidentiality obligations same as Clause 9 of this Agreement.

8.5. Fave's Transfer of Data

- (a) Pursuant to the **Privacy Policy**, the Merchant acknowledges that Fave will engage or engages Appointed Service Providers to Process data, including Personal Data, received from the Merchant, and such Appointed Service Providers may be situated in Malaysia or outside of Malaysia. Subject to

Fave's compliance with the applicable data protection laws, the Merchant hereby agrees to grant its consent to Fave in respect of the transmission of data to the Appointed Service Providers. For the avoidance of doubt, the Appointed Service Providers Process data only on behalf of and subject to instructions from Fave under data processing agreements that require adequate data protection measures.

- (b) In addition and subject to Clause 8.5(a) above, Fave and/or its Appointed Service Provider shall be entitled to anonymise the Personal Data and any other data Fave collected, Processed and/or generated through the performance of this Agreement by applying a range of anonymisation techniques as it deems fit at its own cost and expenses. Fave shall be entitled to deal with the anonymised data for whatsoever purpose, including but not limited to market analysis, products improvement and development, at Fave's sole discretion without any reference and notification to the Merchant.

8.6. Credit Assessment

- (a) Pursuant to the Credit Reporting Agencies Act 2010 ("CRAA"), Central Bank of Malaysia Act 2009 and all other relevant laws and regulations, and subject to Fave's compliance with the **Privacy Policy** and the applicable data protection laws (particularly the Malaysian Personal Data Protection Act 2010), if so required by Fave and/or its Appointed Service Provider, the Merchant agrees to give consent to Fave or its Appointed Service Provider or CTOS Data Systems Sdn Bhd or other registered credit reporting agencies under the CRAA to Process the Merchant's information and/or its shareholders' and directors' Personal Data.
- (b) Subject to Clause 8.6(a) above, the Merchant hereby agrees that Fave and/or its Appointed Service Provider may conduct background, business, credit and/or trade checks on the Merchant and/or its shareholders and directors, such as CTOS and CCRIS, at any time for as long as Fave has a business relationship with the Merchant, for any one or more of the following purposes:
 - (i) Pre-screening a prospective merchant, client, customer, supplier and/or contractor;
 - (ii) Credit or account evaluation;
 - (iii) Opening of account;
 - (iv) Credit or account monitoring;
 - (v) Credit or account review;
 - (vi) Debt recovery; and
 - (vii) Legal documentation consequent to a contract or facility granted.
- (c) For the avoidance of doubt, it shall be Fave's absolute discretion on whether to conduct any credit assessment. This Clause 8.6 shall not be deemed to have imposed an obligation on Fave to conduct credit assessment on the Merchant.

9. CONFIDENTIALITY

- 9.1. To ensure an effective and full performance of this Agreement, the Parties may from time to time disclose or give to the other Party access to certain proprietary and Confidential Information. The Parties shall use the Confidential Information strictly for purposes contemplated under this Agreement only and for no other purposes.
- 9.2. For purposes of this Clause 9, "**Confidential Information**" means any and all information of any kind disclosed to the other Party, whether in written or electronic format, oral or otherwise, and whether or not labelled as "confidential", including without limitation, information relating to the business, financial condition, marketing strategies, know-how, merchants, suppliers, customers, operations, pricing, technology, technical information, contract terms and conditions and all information of any kind relating to the Party disclosing, their respective shareholders, subsidiaries, and/or affiliates which are disclosed, submitted or howsoever made available by or on behalf of the disclosing Party to the receiving Party.
- 9.3. The Parties shall maintain and procure that its respective agents, representatives, directors, officers, employees, advisors or appointed third party service providers to maintain in strict confidence, and shall not use for profit or divulge to third parties, all Confidential Information or trade secrets obtained from the other in the course of this Agreement, unless with the express prior written authority of the disclosing Party.

- 9.4. Confidential Information shall not include any information that:
- (a) is or becomes generally available to the public other than as a result of wrongful disclosure by the receiving Party;
 - (b) becomes available to the receiving Party on a non-confidential basis from a third party source which is authorised to disclose it;
 - (c) is independently ascertained or developed by the receiving Party without reference to the confidential information disclosed by the disclosing Party;
 - (d) is already known to the receiving Party at the time of disclosure; and/or
 - (e) is required by an order of court of competent jurisdiction, by law or by any governmental or other regulatory authority to be disclosed, provided that the receiving Party where reasonably possible notifies the disclosing Party prior to any disclosure and co-operates with the disclosing Party should the disclosing Party elect to contest and/or avoid such disclosure.
- 9.5. The confidential obligations contained in this Clause 9 shall survive expiration or termination of this Agreement and shall continue in effect without any limitation period.

10. TERM AND TERMINATION

10.1. Term of this Agreement

This Agreement shall be valid and effective for a period of two (2) years (“**Term**”) commencing on the Effective Date and shall be automatically renewed continuously for the same period of two (2) years upon the expiry of each Term, unless other terminated in accordance with the provisions of this Agreement.

10.2. No fault termination

Notwithstanding Clause 10.1 above, either Party may, at any time, terminate this Agreement for whatsoever reason by giving fourteen (14) days’ written notice to the other Party.

10.3. Termination due to breach

A Party shall be entitled to terminate this Agreement with immediate effect, in the event that:

- (a) the other Party commits any breach of representation and/or warranty and/or undertaking and/or term given under this Agreement;
- (b) the other Party commits any breach of its obligations under this Agreement and if such breach is remediable, fails to remedy such breach within fourteen (14) days from the service of a written notice by the non-defaulting Party complaining of such breach;
- (c) the other Party becomes insolvent or adjudged a bankrupt or being a company goes into liquidation or wound up;
- (d) the other Party makes any voluntary arrangement with its creditors or becomes subject to an administration order;
- (e) an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the other Party; or
- (f) the other Party ceases or threatens to cease to carry on its business; or
- (g) there are adverse findings pursuant to Clause 11.2 below; or
- (h) the other party commits any activity that may create harm or loss to the goodwill of Fave and PayNet or, for participating in any illegal or prohibited businesses or activities.

10.4. Consequences of Termination

Upon termination of this Agreement:

- (a) Fave shall be entitled to close the Merchant’s FaveBiz Account;
- (b) Fave shall be entitled to remove all the listing and featuring of the Merchant Offerings of the Merchant on the Platform;
- (c) both Parties shall cease to use and, at its own expense and at the other Party’s option, either return to the other Party, or certify in writing the destruction of, all Confidential Information (including any copies of the Confidential Information), or other Intellectual Property, and any other materials provided by or on behalf of one Party to the other Party including the Promotional Materials; and
- (d) any and all amounts owing by one Party to the other Party up to the date of termination will become immediately due and payable.

10.5. Accrued rights and liabilities

Termination of this Agreement shall in no circumstances affect:

- (a) the accrued rights, obligations or liabilities of the Parties on the date of termination;
- (b) the transactions already transacted prior to the date of termination;
- (c) the Merchant's obligations to fulfill its obligations in supplying, delivering and performing the Merchant Offering to the Customer; and/or
- (d) the validity of any other agreement, arrangement and transaction made between the Merchant and Fave.

Notwithstanding the termination of this Agreement for any reason whatsoever, in the event the Merchant ceases to continue to make available any of its Merchant Offerings or fails to fulfil its obligation as per Clause 10.5(b) above, Fave reserves the right to clawback any amount outstanding to Fave and/or the Customer via appropriate methods available at law. For the avoidance of doubt, such outstanding amount may include any upfront payment settled and/or paid by Fave and/or the Customer to the Merchant for its Merchant Offering despite the obligations have not been fully performed by the Merchant and/or the Merchant Offering has not been fully redeemed or utilised by the Customer.

10.6. Survival

Any provision of this Agreement which expressly or by implication is intended to continue to remain effective on or after termination of this Agreement, including (but not limited to) Clauses 3.2, 5, 6, 7, 8, 9, 10.4, 10.5, 10.6, 11 and 12, shall survive the termination of this Agreement.

11. ANTI-FRAUD AND ANTI-MONEY LAUNDERING

11.1. In addition to its rights under Clause 10 above, Fave shall be entitled to, without any liability to the Merchant, immediately suspend or terminate the Merchant's use of Platform, FaveBiz and/or Product(s) and the Merchant's access to its FaveBiz Account, with notice to the Merchant, upon the occurrence of any of the following events:-

- (a) if in the opinion of Fave, there is dishonesty, suspected fraud, illegality, criminality or misrepresentation in the conduct of the Merchant's FaveBiz Account or the Merchant's use of the Platform, FaveBiz and/or Product(s);
- (b) if the Merchant is in breach or Fave have reasonable grounds to believe that the Merchant have breached any of the provisions of this Agreement and/or any applicable terms and conditions as may be provided by Fave from time to time, or have engaged in any conduct prejudicial to Fave or in the opinion of Fave, the Merchant's acts are prejudicial to Fave's interest;
- (c) if the Merchant are in breach of any acts, statutes, laws, by-laws, rules and / or regulations imposed by any party, regulatory body or government agency;
- (d) if the Merchant have submitted false documents or have declared false information during its registration with Fave;
- (e) if the Merchant have acted in bad faith or with malicious intent;
- (f) if the Merchant's name is listed under any regulatory watchlist (including but not limited to listing related to terrorism and terrorism financing under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLATFPUAA) and/or such other laws and regulations of similar nature; and/or
- (g) if the Merchant fail to provide any additional information which Fave may request from the Merchant from time to time for verification purposes.

11.2. If Fave suspends the Merchant's FaveBiz Account and/or its services to the Merchant pursuant to Clause 11.1 above, Fave shall have the right to commence investigation into such event and shall have the absolute right to hold back any and all Remittance Amount due to the Merchant until and unless clearance has been obtained from the relevant authorities and/or the satisfactory completion of any investigation.

11.3. In the event the access and/or utilisation of the Platform, FaveBiz, and/or Product(s), or this Agreement is ceased, terminated or suspended by Fave, as the case may be, due to fraudulent, illegal or unlawful transactions including but not limited to breaches of any law (including but not limited to the Financial Services Act 2013 and/or AMLATFPUAA or any regulation and/or guidelines made thereunder), the Merchant shall not be entitled to obtain any Remittance Amount whatsoever and it shall be lawful for Fave to retain for an indefinite period or release to the relevant authorities the Remittance Amount in

accordance with applicable legislation, regulation and/or guidelines. The Merchant shall not be entitled to claim any form of compensation for any loss arising therefrom.

12. LIMITED LIABILITY AND INDEMNITY

- 12.1. Notwithstanding anything to the contrary in this Agreement, no Party shall be liable to the other Party, whether directly or indirectly, for:
- (a) loss of actual or anticipated profits;
 - (b) loss of business and/or goodwill;
 - (c) loss of data and/or the restoration costs of data; and
 - (d) any indirect or consequential loss or damage whatever or howsoever arising.
- 12.2. The Parties agree to indemnify and hold harmless each other from and against any claim, demand, proceeding, loss, damage, cost and expense (including, but not limited to, reasonable legal costs and/or solicitor fees) and all liabilities of whatsoever nature or description which may be made or taken or suffered by an innocent Party in connection with or in any manner arising from the breach of any obligation, representation, warranty, undertaking or any term of this Agreement by the defaulting Party or any wrongful act attributable to the defaulting Party's agent, officer, representative and/or employee including for infringement of patents, copyrights, trademarks or any other intellectual property rights and breach of data protection laws.
- 12.3. The Merchant further agrees to defend, indemnify and hold Fave, its affiliated, related entities and/or Appointed Service Provider, and any of its respective officers, directors, agents and employees, harmless from and against any claims, lawsuits, investigations, penalties, damages, losses or expenses (including, but not limited to, reasonable legal costs and/or solicitor fees) arising out of or relating to any of the following:
- (a) any claim by the relevant tax authorities for the tax obligations of the Merchant arising from the Merchant Offering;
 - (b) any claim by a Customer or anyone else arising out of or in connection with the Merchant Offering or any other goods and/or services offered by the Merchant, including, but not limited to, claims for personal injury, death, or property damages.
- 12.4. Subject to Clause 12.2 above, the entire liability of Fave under this Agreement, howsoever arising, shall in no circumstances exceed **Ringgit Malaysia Two Thousand and Five Hundred (RM2,500.00) Only** or **the cumulative total amount of the Fave Service Charge(s) that Fave has received** under this Agreement, whichever lower.

13. NOTICE

- 13.1. All and any notices, demands, requests or other communications to be given or made under this Agreement shall be in writing and in English language, and shall be sufficiently given or made to the other Party by serving such notice at or sending such notice by hand, registered post, facsimile or electronic mail to the contact details as notified by one Party to the other from time to time or via the communication channel available in FaveBiz.
- 13.2. Notice shall be deemed given:
- (a) in the case of hand delivery, upon the receipt of written acknowledgment signed by the recipient;
 - (b) in the case of posting, five (5) working days after posting; and/or
 - (c) in case of facsimile, electronic mail or the communication channel available in FaveBiz, on the day of transmission provided that the sender has not received a failed or undeliverable message from host provider of the recipient within the day of transmission. For the avoidance of doubt, pursuant to Clause 6.1(i) above, the Merchant is obliged to respond to such notice given by Fave to the Merchant via facsimile, electronic mail or the communication channel available in FaveBiz if so required by Fave in the said notice.

14. MISCELLANEOUS

- 14.1 **Taxes:** Subject to any exemptions it may obtain, each Party shall pay its own respective taxes whether national, state or local, imposed in connection with the profits generated or services performed pursuant to this Agreement.

- 14.2 **Good Faith:** The Parties recognise that it is impossible or impractical to make provisions for every contingency that may arise and that the Parties hereby declare to be the mutual intention that this Agreement shall operate between them with fairness and without detriment to the interest of either Party.
- 14.3 **Specific Performance:** In the event that any Party shall make default in the performance of its obligations and covenants herein, the non-defaulting Party shall be entitled to the remedy of specific performance against the defaulting Party and it is hereby expressly agreed that an alternative remedy of monetary compensation shall not be regarded as compensation or sufficient compensation for any Party's default in the performance of the terms and conditions herein.
- 14.4 **Rights and Remedies:** The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies of the Parties provided at law.
- 14.5 **Binding effect:** This Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and permitted assigns.
- 14.6 **Assignment:** The rights and obligations of the Merchant shall not be assigned or delegated without the prior written consent of Fave, and any purported assignment without the written consent shall be null and void. Fave shall be entitled to transfer or assign this Agreement or any of its rights thereunder to a present or future affiliate or pursuant to a merger, consolidation, reorganisation or sale of all or substantially all of the assets or business, or by operation of law, with notice to the Merchant.
- 14.7 **Severability:** If any provision of this Agreement is held to be illegal, invalid or unenforceable in whole or in part in any jurisdiction, this Agreement shall, as to such jurisdiction, continue to be valid as to its other provisions and the remainder of the affected provision; and the legality, validity and enforceability of such provision in any other jurisdiction shall be unaffected.
- 14.8 **No Waiver:** No failure to exercise and no delay in exercising on part of the Parties any right, power or privilege under this Agreement shall operate as a waiver hereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 14.9 **No Agency:** Nothing in this Agreement creates, implies or evidences any partnership or joint venture between the Parties, or the relationship between them of principal and agent. Neither Party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.
- 14.10 **Entire Agreements:** This **General Terms & Conditions**, together with the **Registration Form, Products Terms & Conditions** (as introduced by Fave and accepted by the Merchant from time to time, whether physically or through online) and any appendices and annexures and/or other additional documents referred to in this General Terms & Conditions and the respective Products Terms & Conditions, including but not limited to any future amendment or addendum made by Fave, as the case may be, shall constitute the entire Merchant Agreement between Fave and the Merchant. For the avoidance of doubt, this Agreement contains all the terms agreed between the Parties regarding its subject matter and supersedes and excludes any prior agreement, understanding or arrangement between the Parties, whether oral or in writing.
- 14.11 **Products Terms & Conditions:** During the Term of this Agreement, Fave may from time to time introduce a new Product to the Merchant and the Merchant may from time to time agree to subscribe for such Product by signing the relevant Product Terms & Conditions, whether physically or through online. For the avoidance of doubt, all Products Terms and Conditions executed between the Parties shall be in addition to but not in diminution of this General Terms & Conditions. Unless otherwise stated in the respective Products Term & Conditions, this General Terms & Conditions shall prevail if there is any inconsistency between a Product Terms & Conditions and this General Terms & Conditions.
- 14.12 **Variation:** Subject to a notice being given to the Merchant, Fave shall have the right to vary or amend this **General Terms & Conditions** from time to time without the Merchant's consent. A **Product Terms & Conditions** may be varied or amended only by mutual written agreement of authorised representatives of the Parties

- 14.13 **Governing Law and Jurisdiction:** This Agreement shall be governed by and interpreted in accordance with the laws of Malaysia without regard to the conflict or choice of law principles. Any dispute, legal action or proceeding arising out of or in connection with this Agreement shall be submitted to the jurisdiction of the Malaysian courts, unless the Parties by mutual agreement agree to submit the same for settlement via arbitration in Malaysia or otherwise.
- 14.14 **Electronic Execution:** If this Agreement and/or any part thereof is in electronic form, the Parties agree to use an electronic signature service provided by a validly existing service provider for the purpose of signing this Agreement. The Parties further agree that electronic signatures shall be treated with the same legal force and effect as if such signatures were written by hand, and shall not be denied legal validity solely due to the fact that the signature is in electronic form.
- 14.15 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall be deemed to constitute one and the same instrument.

FavePay Terms & Conditions

(This FavePay T&C shall be subjected to the Merchant Agreement General Terms & Conditions ("Master Agreement") signed between the Merchant and Fave Asia Technologies Sdn Bhd and shall be in addition but not in diminution of the Master Agreement)

1. COMMENCEMENT DATE

This FavePay T&C shall be effective from the date on which the Merchant received written notification from Fave about its successful subscription to FavePay with Fave.

2. ABOUT FAVEPAY

2.1. FavePay

(a) FavePay is a cashless payment mechanism developed and owned by Fave that allows the Customer to make cashless payments to the Merchant at the Merchant's participating outlet(s) ("Outlet(s)") via the App, subject to the Merchant Offering set out in Part I and Part III of this FavePay T&C.

(b) FavePay provides a variety of value-added features, each of which is subjected to additional terms and conditions, as stipulated in Part III of this FavePay T&C ("FavePay Features").

2.2. New Feature

(a) Without limitation to Clause 2.1(b) above, Fave may from time to time develop new, additional and/or value-added feature(s) to FavePay (collectively and individually as "New Feature") and introduce the same to the Merchant, subject to such other terms and conditions as Fave may impose at its own discretion.

(b) Any additional terms and conditions applicable to the New Feature, once accepted and agreed by the Merchant (whether physically or online), shall form part of this FavePay T&C and shall be read and construed as if the terms set out were inserted in this FavePay T&C (under Part III) by way of addition, save and except the effective date of such additional terms and conditions shall be the date on which the Merchant received written notification from Fave about its successful subscription to the New Feature.

3. PARTIES' OBLIGATIONS

3.1. Fave's Obligations

(a) Fave shall, based on the specifications provided by the Merchant and set out in Part I and Part III of this FavePay T&C, design and feature the Merchant Offering ("Featuring").

(b) Fave, in its sole discretion, shall decide when, where and to whom the Featuring are published. Fave may feature the Merchant in other operating platforms owned and/or operated by its parent company, Fave Group Pte. Ltd., and may transfer or enhance its operating platform to another platform at any time for any reason with notice to Merchant

(c) In addition to the Featuring above, Fave will provide FavePay to allow the Customer to discover the Merchant's Outlet(s) and to pay bill by using FavePay.

(d) Fave will issue Cashback for every transaction paid using FavePay. For purposes of this FavePay T&C, "Cashback" shall mean and subject to the terms as follows:

- (i) Cashback will be issued to the Customer for each specific Merchant at the rate set out in Part I (and/or Part III, if applicable) of this FavePay T&C under "Merchant Cashback".
- (ii) Cashback can only be used at the same Merchant's Outlet(s).
- (iii) Cashback is not transferable from one Merchant to another.

- (iv) Cashback is not exchangeable for cash at any of the Merchant's Outlet(s) nor Fave.
- (v) Cashback is valid for a period of time as stipulated in Part I (and/or Part III, if applicable) of this FavePay T&C under "Cashback Validity", from the transaction date and will be canceled from the Customer's Fave account upon expiry.
- (vi) Fave reserves the right to change the Cashback expiry period upon notice to Merchant.
- (vii) Cashback issued will be charged to Merchant via issuance of invoice on monthly basis.
- (viii) Fave will deduct the Cashback from the Merchant's payment upon the issuance of Cashback.
- (ix) Unutilised expired Cashback is not exchangeable for cash.

For the avoidance of doubt, unutilised expired Cashback shall be forfeited to Fave entirely upon its expiry and the Merchant will not have, or be entitled to claim from Fave, any rights and/or interests in respect of such forfeited Cashback unless otherwise specified in Part I and/or Part III.

4. PAYMENT AND PAYMENT TERMS

4.1. FavePay Transaction Collection

- (a) Fave shall collect from the payment of each transaction from Customer through FavePay.
- (b) Fave shall deduct from the payment:
 - (i) Fave Fee as set out in Part I or Part III, as the case may be, of this FavePay T&C;
 - (ii) the Licence Fee pursuant to the General Terms and Conditions;
 - (iii) Cashback issued to the Customer pursuant to Part II of this FavePay T&C; and
 - (iv) any legally applicable tax(es) in respect of Clauses 4.1(a) and (b), and thereafter to remit the balance ("Remittance Amount") to the Merchant.

4.2. Payment Terms

- (a) Fave shall remit the Remittance Amount for transacted FavePay to the Merchant no later than five (5) working days after the transaction has been confirmed in FavePay, unless otherwise stated in Part I or Part III of this FavePay T&C (as the case may be). For the avoidance of doubt, Fave's Fee in respect of a transaction shall become due when the transaction is confirmed and Fave is under no obligation to transfer any amounts (including, but not limited to, any Remittance Amount) to the Merchant where a transaction is not made.
- (b) The Parties agree that a FavePay transaction is deemed confirmed when:
 - (i) The Customer paid the bill through FavePay;
 - (ii) The Merchant has delivered the Merchant Offering in full to the Customer;
 - (iii) The Merchant has provided to Fave evidence of (a) and (b) including the receipt id and/or other evidence Fave may reasonably request as proof of the provision of the Merchant Offering, for example, but not limited to a delivery confirmation in case of delivery of physical goods.

For the avoidance of doubt, if any of the above three described requirements are not met, a FavePay transaction is not confirmed and Fave shall not be obligated to pay the Merchant any amount in respect of such particular transaction.

- (c) Any payment made by Fave to the Merchant shall be without prejudice to any claims or rights which Fave may have against the Merchant.

4.3. Refund

Fave has the right to refund any Customer of FavePay who, in Fave's reasonable opinion, has a valid complaint about the Merchant Offering, including, but not limited to, its supply or delivery. If Fave has already paid the Merchant in respect of such refunded payment, Fave may recover the refunded amount from the Merchant.

5. INVOICE

- (a) Fave shall send an invoice to the Merchant on its Fave Fee and Cashback in compliance with applicable law.
- (b) The Merchant shall provide the Customer with an invoice in compliance with applicable law.

APPENDIX A
(Additional Terms & Conditions applicable only to DuitNow QR Merchants)

PREAMBLE

This Appendix A shall form an integral part of the Merchant Agreement ("Agreement") entered into between the Merchant (whose particulars are set out in the Merchant Registration Form) and Fave. For the avoidance of doubt, this Appendix A shall be read together with the General Terms & Conditions and all the terms and conditions contained in this Appendix A shall be in addition but not in diminution of the General Terms & Conditions. Unless otherwise stated in this Appendix A, this Appendix A shall prevail if there is any inconsistency between this Appendix A and the General Terms & Conditions.

1. Introduction

- 1.1 Fave Asia Technologies Sdn Bhd is the Crediting Participant and the Merchant whose particulars are stated in the Merchant Registration Form is the registered Merchant under the DuitNow QR Services.
- 1.2 In consideration of the fees paid to the Crediting Participant, the Crediting Participant agrees to facilitate the participation of the Merchant in DuitNow QR Services in accordance with these Terms & Conditions.
- 1.3 By registering for DuitNow QR Services, the Merchant agrees to observe all DuitNow QR operating procedures issued by the DuitNow QR Owner & Operator which is applicable to the Merchant, as reflected in this Terms including any future revisions communicated by the Crediting Participant to the Merchant.
- 1.4 This Appendix A, shall have the following definitions: -

"Account" means an e-money account offered by issuers of e-money issuer and all types of banking accounts offered by banks, except for fixed deposit accounts. This shall include, but is not limited to, all types of conventional and/ or Islamic investment accounts, Islamic deposit account, current accounts, virtual internet accounts. Additionally, means all line of credit accounts tied to payment cards where transaction is made.

"Beneficiary of Fraud" means party who ultimately benefits from the unauthorised or fraudulent payment.

"Business Day" means any calendar day from Monday to Friday, except a public holiday or bank holiday in Kuala Lumpur.

"Crediting Participant" means Fave Asia Technologies Sdn Bhd.

"Debiting Participant" means banks and E-Money issuer participating in RPP where the Payer maintains account(s)

"DuitNow QR Brand" means brand, icon, logo, trademark and service mark for the DuitNow QR.

"DuitNow QR Owner & Operator" means Payments Network Malaysia Sdn. Bhd. (Company No.: 200801035403 [836743-D])

"Payer" means individuals, companies, body corporates, businesses (including sole proprietors and partnerships), government agencies, statutory bodies, societies and other Customers who transfers funds via DuitNow QR Service

“**RPP**” means Real-Time Payments Platform, a shared payment infrastructure developed and established by PayNet, which facilitates instant and interoperable payments and collections

“**Unrecoverable Loss**” means the portion of funds transferred and credited to the wrong party due to erroneous, mistaken, unauthorised or fraudulent payments that cannot be retrieved after Participants have exhausted the recovery of funds process.

2. **Obligations Of Merchant**

- 2.1 If the Merchant wishes to receive funds via DuitNow QR, the Merchant:
 - 2.1.1 Shall not impose any fees for POS Payments made by Payers using DuitNow QR Service; and
 - 2.1.2 Shall not deduct any RPP fees from the Cash Out withdrawal and ensure the Payer is paid in full amount.
- 2.2 The Merchant shall accept Payments or Cash Out that draw funds from E-Money account offered by issuers of E-Money and all types of deposit accounts offered by banks, except for fixed deposit accounts. This shall include, but is not limited to, all types of conventional and/ or Islamic investment account, Islamic deposit accounts, current accounts, virtual internet accounts and/or line of credit accounts tied to payment cards.
- 2.3 The Merchant must not make any warranty or representation in respect of goods or services supplied which may bind the Crediting Participant, DuitNow QR Owner & Operator, Debiting Participant, or any other Participants in the service.
- 2.4 The Merchant must establish and maintain a fair policy for correction of errors and facilitate recovery of funds for erroneous or mistaken payments and/or unauthorised or fraudulent payments.
- 2.5 The Merchant shall consent and allow the Crediting Participant to disclose its information pertaining to the payment processes as the DuitNow QR Owner & Operator may reasonably require for DuitNow QR Services.
- 2.6 The Merchant who has been granted a non-transferable license to use the DuitNow QR Brand shall not license or assign the said right to use to any other third party. The Merchant shall comply with the DuitNow Brand Guidelines at all times.
- 2.7 For the purpose of **Clause 2.6**, the Merchant will be liable for any claims, damages and expenses arising out of or caused to arise from misuse or unauthorised usage of the DuitNow QR Brand. In the event of such breach, the Merchant sub-licensed rights of using the DuitNow QR Brand shall automatically be revoked and ceases immediately, whereupon this Agreement shall be terminated henceforth, without affecting accrued rights of parties. Upon termination, **Clause 2.8** shall apply accordingly.

- 2.8 This **Clause 2** shall survive termination of this Terms. Termination does not affect either party's rights accrued, and obligations incurred before termination.

3. Obligations of Crediting Participant

- 3.1 The Crediting Participant shall immediately credit and make funds available in the Merchant's account, except for situations where the Merchant has specifically agreed for delayed or batched posting.
- 3.2 Any refunds by Crediting Participants must be made together with transaction fees to the Merchant if fees were incurred due to Payer's disputes that are not caused by the Merchant. However, if the Merchant opts to partially refund overpayments to Payers, the Merchant shall bear the transaction fees for executing such refund.
- 3.3 Crediting Participant shall implement reasonable measures to detect, mitigate, resolve and prevent actual and suspected fraudulent or unauthorised acts.

4. Recovery of Funds

- 4.1 The Merchant shall:
- 4.1.1 Assist the Crediting Participant in any investigation of erroneous or mistaken payments as stated in **Clause 5**;
- 4.1.2 Assist the Crediting Participant in any investigation on unauthorised or fraudulent payments as stated **Clause 6**; and
- 4.1.3 Effect refund(s) to the Payers, Debiting Participants, as the case may be, if it is found that the Merchant is responsible for such erroneous, mistaken, unauthorised or fraudulent payment, as the case may be.
- 4.2 In the event erroneous or mistaken payment is caused by the Merchant, after verification and confirmation from the Merchant with respect to such erroneous or mistaken payment, the Crediting Participant shall immediately reverse out all credits erroneously posted to the Merchant's account regardless of whether funds have been recovered from other affected parties.

5. Erroneous or Mistaken DuitNow QR Transaction

- 5.1 The Crediting Participant shall inform the Merchant once the Crediting Participant receives a request to recover funds that is wrongly credited to the Merchant due to an erroneous or mistaken payment. The Merchant must facilitate the recovery of funds process stated in **Clause 5.2**.
- 5.2 Upon receiving a recovery of funds request for erroneous or mistaken payment, the Crediting Participant has the right to debit the Merchant's account to recover funds within five (5) Business Days provided the following conditions are met:
- 5.2.1 If the recovery of funds request is received within ten (10) Business Days from date of the erroneous/mistaken payment:
- 5.2.1.1 The Crediting Participant is fully satisfied that funds were erroneously or mistakenly credited to the Merchant's account;

- 5.2.1.2 The Crediting Participant has notified the Merchant regarding the proposed debiting of Merchant's account and the reason for the debiting; and
 - 5.2.1.3 There is sufficient balance in the Merchant's account to cover the recovery amount.
 - 5.2.2 If the recovery of funds request is received between eleven (11) Business Days and seven (7) months from date of erroneous/mistaken payment;
 - 5.2.2.1 The Crediting Participant is fully satisfied that funds were erroneously or mistakenly credited to the Merchant's account;
 - 5.2.2.2 The Crediting Participant has provided written notification to the Merchant where the erroneous/mistaken payment will be recovered through debiting the Merchant's accounts within ten (10) Business Days of the notifications unless the Merchant provides reasonable evidence to substantiate ownership of the funds in question; and
 - 5.2.2.3 There is sufficient balance in the Merchant's account.
 - 5.2.3 If recovery of funds request is received after seven (7) months from the date of erroneous or mistaken payment:
 - 5.2.3.1 The Crediting Participant must seek the Merchant's prior written consent to debit the Merchant's account to recover funds, and the Merchant must give its consent to debit its account within ten (10) Business Days of receiving the request to debit from the Credit Participant.
- 5.3 When the Merchant receives a request for consent from Crediting Participant as described in **Clause 5.2.3.1**, Merchant shall not unreasonably withhold consent to debit its account when there is a legitimate recovery of funds request.

6. Unauthorised or Fraudulent DuitNow QR Transaction

- 6.1 The Crediting Participant shall inform the Merchant once the Crediting Participant receives a request to recover funds that was credited to the Merchant due to an unauthorised or fraudulent payment. The Merchant must facilitate the recovery of funds process stated in **Clause 6.2**.
- 6.2 If the Merchant receives unauthorised or fraudulent payment, the Merchant shall:
 - 6.2.1 Immediately take all practicable measures to prevent or block further misuse, unauthorised or fraudulently transferred funds for the benefit of the Beneficiary of Fraud;
 - 6.2.2 Furnish to the Crediting Participant with information, including but not limited to the name, address, contact information and/or national identity card number/passport number to conclusively identify the Beneficiary of Fraud within seven (7) Business Days of detecting the unauthorised or fraudulent payment;
 - 6.2.3 Take all practicable measures to the extent permitted by law to recover funds from the unintended recipient of funds including but not limited to reversing out credits, drawing on deposits or other financial guarantees that the Beneficiary of

Fraud placed/ places with the Merchant, stopping delivery of goods, suspending services that the Beneficiary of Fraud has paid for, repossessing goods delivered to the Beneficiary of Fraud and/or taking legal action against the Beneficiary of Fraud; and

6.2.4 Immediately provide such information required in **Clause 6.6.2** to the Crediting Participant to facilitate the Debiting Participant's investigation.

6.3 In the event that a Crediting Participant receives a payment request from a Merchant which the Crediting Participant believes to be an unauthorised or fraudulent payment, the Crediting Participant shall do the following (upon becoming aware of the suspected unauthorised payment/fraud):

6.3.1 The Crediting Participant shall conduct investigation to determine:

- a. whether the Merchant is implicated in the unauthorised payment/fraud; or
- b. whether there are sufficient grounds to conclude that the Merchant is involved, or has benefited, directly or indirectly from the unauthorised payment/fraud; and

the Crediting Participant shall prevent or block withdrawal or and further use of the remaining funds in the Merchant's account with the Crediting Participant until there is satisfactory resolution of Unrecoverable Loss.

6.3.2 The Merchant shall facilitate and cooperate with the Crediting Participant to complete the investigation

6.4 In the event the Merchant is responsible for unauthorised or fraudulent payment, **Clause 10** shall apply accordingly.

7. **Dispute Resolution**

7.1 Merchant shall, in good faith, attempt to settle all disputes or conflicts with Crediting Participant arising in connection with the DuitNow QR Service amicably and by mutual agreement;

7.2 However, Merchant shall have the right to lodge a complaint with the DuitNow QR Owner & Operator if there are allegations of Crediting Participant's non-compliance to the DuitNow QR rules as reflected in these Terms.

7.3 The DuitNow QR Owner & Operator shall review of such complaints and allegations in accordance with **Clause 7.4**.

7.4 Merchant shall have the right to refer their disputes to the DuitNow QR Owner & Operator if there is an allegation of Participant's non-compliance to the DuitNow QR rules. The DuitNow QR Owner & Operator will review such complaints and allegations, but such review will be confined to:

7.4.1 Determination whether there has been non-compliance;

7.4.2 Stipulating remedies for Participant to correct or address the non-compliance; and

7.4.3 Determination if penalties are applicable for the non-compliance.

7.5 All decisions rendered by the DuitNow QR Owner & Operator in response to complaints from Merchant shall be prima facie binding on the Crediting Participant.

8. Indemnity

- 8.1 Subject to the other party's compliance with **Clause 8.2**, each party ("Indemnifying Party") agrees to indemnify and hold the other party and its employees and agents harmless against any and all losses, expenses, claims, suits, demands, actions, and proceedings including all reasonable legal and other related fees or charges ("Liability") which the other party may suffer or incur or for which the other party may become liable as a result of:
- 8.1.1 Any negligence, misrepresentation or fraud on the part of the Indemnifying Party, its employees, and agents with respect to the performance of its obligations or the exercise of any of its rights under this agreement;
 - 8.1.2 Any claim by a Payer, Crediting Participant, Debiting Participant, DuitNow QR Owner & Operator or any other person for any breach by the Indemnifying Party of any applicable laws;
 - 8.1.3 The failure of the Indemnifying Party to observe any of its obligations under this agreement; or
 - 8.1.4 Any use of the DuitNow QR Brand by the Indemnifying Party other than as permitted by this agreement.
 - 8.1.5** Except to the extent that such liability arises or is incurred by the other party by reason of any act or omission on its part mentioned in **Clause 8.1.1** to **Clause 8.1.4**.
- 8.2 In the event a claim is made against a party in respect of which it is entitled to be indemnified pursuant to **Clause 8.1**, that party must:
- 8.2.1 Give notice of any such claim to the other party;
 - 8.2.2 Consult with the other party in relation to any such claim; and
 - 8.2.3 Not to settle any claim without obtaining the prior written consent of the other, such consent not to be unreasonably withheld.
- 8.3 The Crediting Participant is not liable to the Merchant for any loss or damage suffered by the Merchant as result of:
- 8.3.1 A missing or erroneous payment; and
 - 8.3.2 The delay or disruption caused by any system failure beyond the Crediting Participant's reasonable control.

9. Suspension

- 9.1 The DuitNow QR Owner & Operator or the Crediting Participants, as the case may be, reserve the right to suspend the Merchant's access to the DuitNow QR Service under the following circumstances, which includes, but not limited to:
- 9.1.1 The Merchant breached this agreement, applicable rules, guidelines, regulations, circular or laws related to DuitNow QR that was communicated to the Merchant by the Crediting Participant;
 - 9.1.2 The Merchant has inadequate operational controls or insufficient risk management processes, resulting in potential threats to the stability, integrity, safety and efficiency of DuitNow QR and/or RPP; or

- 9.1.3 The Merchant is suspected on reasonable grounds that it has committed or will commit fraudulent act in connection with the DuitNow QR; or
- 9.2 Upon suspension of the Merchant:
 - 9.2.1 The services provided to the Merchant under the DuitNow QR Services will be suspended immediately;
 - 9.2.2 The Merchant must cease all promotional and advertising that is related or can be perceived to be related to DuitNow QR;
 - 9.2.3 The Merchant shall remove all DuitNow QR Brand from the Merchant's marketing collaterals, channels and website; and
 - 9.2.4 The Merchant must take all reasonable steps to comply with any directions of the Crediting Participants to minimise the impact on Payers of the suspension or termination.

10. Termination

- 10.1 The DuitNow QR Owner & Operator or the Crediting Participant, as the case maybe, reserve the right to terminate the services provided under this agreement or DuitNow QR Service under the following circumstances, which includes, but not limited to:
 - 10.1.1 This agreement between the Merchant and the Crediting Participant is terminated or expired;
 - 10.1.2 The Merchant breached this agreement, applicable rules, guidelines, regulations, circulars or laws related to DuitNow QR that was communicated to the Merchant by the Crediting Participant;
 - 10.1.3 The Merchant fails to remedy or take adequate steps to remedy its default under this agreement to the satisfaction of the Crediting Participant or the DuitNow QR Owner & Operator, as the case maybe, within the timeframe specified by the Crediting Participant;
 - 10.1.4 The Merchant has inadequate operational controls or insufficient risk management processes resulting in potential threats to the stability, integrity, safety and efficiency of the DuitNow QR and/or RPP;
 - 10.1.5 Court order(s) affecting the Merchant or the Crediting Participant(s) membership and/or legal status;
 - 10.1.6 Directive(s) issued by regulatory or government authority affecting the Merchant or the Crediting Participant(s) membership and/or legal status;
 - 10.1.7 The Merchant's insolvency;
 - 10.1.8 The Crediting Participant's membership in DuitNow QR, RPP or RENTAS is terminated or suspended and the Merchant has not appointed a replacement Crediting Participant; or
 - 10.1.9 Such other detrimental circumstances or reasons that PayNet considers necessary to suspend or terminate such Merchant's access to DuitNow QR.

- 10.2 Upon termination of this agreement, the participation of Merchant in DuitNow QR is automatically terminated and the Merchant will no longer have access to DuitNow QR and the services provided under DuitNow QR.

11. Crediting To Merchant

- 11.1 Crediting Participants are required to credit Merchant's bank account with funds from incoming Payment Instructions and make the incoming funds available for the Merchant' unencumbered use immediately except for situations where the Merchant has specifically agreed for delayed or batched posting.
- 11.2 Crediting Participants must make payment in full to the Merchant and shall not deduct any fees from the payment proceeds due to a Merchant, except for situations where the Merchant has specifically agreed in writing that fees can be deducted from Payments Instructions.

12. Voluntary Exit from DuitNow QR

- 12.1 Merchant has the option to terminate their access to the DuitNow QR by giving prior written notification to the Crediting Participant.

13. Provision of Reconciliation Information

- 13.1 Crediting Participant shall make available to the Merchant the following minimum information, for the purpose of facilitating the Merchant's reconciliation processes and accounting for payment of receipts and fees:
- 13.1.1 Reference No. or Business Message Identifier;
 - 13.1.2 Payer's name;
 - 13.1.3 Recipient Reference;
 - 13.1.4 Other Payment Details, where applicable;
 - 13.1.5 Transaction amount;
 - 13.1.6 Transaction date and time;
 - 13.1.7 Debiting Participant's name;
 - 13.1.8 Account type;
 - 13.1.9 Gross total transaction value;
 - 13.1.10 Total transaction volume; and
 - 13.1.11 Total fees/ commissions charged

14. Liability for Unrecoverable Loss

- 14.1 For erroneous payment, mistaken, unauthorised and/or fraudulent payment that cannot be fully or partially recovered, the amount that cannot be recovered will be deemed as Unrecoverable Loss and the party causing or who could have reasonably prevented the Unrecoverable Loss will be liable to bear that loss.

- 14.2 If, after completing its investigations, the Crediting Participant has reasonable grounds to believe that the Merchant caused could have reasonably prevented the Unrecoverable Loss, the Crediting Participant shall notify the Merchant and shall have the right to freeze funds in the Merchant's account until there is satisfactory resolution of Unrecoverable Loss. The amount frozen shall be no more than the amount of the Unrecoverable Loss.
- 14.3 The Merchant agrees to take all measures to recover the Unrecoverable Loss if the Unrecoverable Loss is due to its fault or negligence. Notwithstanding the aforesaid, the Crediting Participant shall not be prevented from taking legal action against the Merchant to make good the Unrecoverable Loss to the extent permitted by law.
- 14.4 The Crediting Participant shall fully refund DuitNow QR fees incurred for erroneous, mistaken, unauthorised and/or fraudulent payment, if the error was not due to the Merchant except in situations where the Merchant decides to partially refund an overpayment. If the Merchant opts to partially refund overpayments to the Customer, the Merchant shall bear the transactions fees for executing the refund.

15. Representation and Warranty

- 15.1 The Merchant acknowledges and agrees that the obligation of confidentiality extends but not limited to those specified in **Clause 17**, the disclosure of fees and charges contained in this Agreement; and any technology or know-how related to the service or the performance of this agreement.
- 15.2 The Merchant agrees to comply with PDPA of which it is bound and shall not do any act that will cause the Crediting Participant, Debiting Participant and the DuitNow QR Owner & Operator to breach any personal data protection laws.

16. Disclaimer

- 16.1 The DuitNow QR Owner & Operator and Crediting Participant shall not be liable for any claims, actions, demands, costs, expenses, losses, and damages (actual and consequential) including legal costs that are incurred or suffered by the Merchant arising out of or caused by the Crediting Participant in connection with the operations and services provided by the Crediting Participant in the service. The Merchant agrees that it will communicate and resolve any dispute in relation to the aforesaid matters with the Crediting Participant.

17. Confidentiality

- 17.1 The Merchant shall treat any information it receives or possess as result of this agreement, as confidential and will not use such information other than for the purposes which it was given.
- 17.2 **Clause 17.1** shall not apply to information which:
- 17.2.1 Is or has at the time of use or disclosure become public knowledge without any breach of this agreement by the parties;
 - 17.2.2 Is or has at the time of use or disclosure become generally known to companies engaged in the same or similar business(es) as the party on a non-confidential basis through no wrongful act of the party;
 - 17.2.3 Is lawfully obtained by a party from third parties without any obligation by the party to maintain the information proprietary or confidential;
 - 17.2.4 Is known by a party prior to disclosure hereunder without any obligation to keep it confidential and such information was not disclosed by the other party under this agreement;
 - 17.2.5 Is independently developed by a party without reference to or use of the other party's Confidential Information; or
 - 17.2.6 Is required to disclose or divulge by any court, tribunal, governmental or authority with competent jurisdiction or by any statute, regulation or other legal requirement, take over panel or other public or quasi-public body as required by law and where the Party is required by law to make such disclosure. The Party shall give notification as soon as practical prior to such disclosure being made.

18. Variation and Waiver

- 18.1 The Crediting Participant may change the terms of this agreement at any time in writing and such change shall take effect from the date specified in the notice.
- 18.2 Any provisions herein cannot be waived except in writing signed by the party granting the waiver.

19. Severability

- 19.1 If the whole or any part of a provision of this agreement is void, unenforceable or illegal in one jurisdiction, the remainder of this agreement shall be enforceable and valid in other jurisdictions.

20. Force Majeure

- 20.1 The Crediting Participant shall not be liable to the Merchant for any loss or damage (including direct or consequential), for failure to observe or perform its obligations under this agreement for reasons which could not be reasonable diligence be controlled or prevented by the Crediting Participant, including but not limited to, strikes, acts of God, acts of nature, acts of government not limited to movement control order fire, flood, storm, riots, power shortages

or power failure, power disruption by war, sabotage or inability to obtain sufficient labour, fuel or utilities.